



Billing Code: 8025-01

SMALL BUSINESS ADMINISTRATION

13 CFR Part 123

RIN: 3245-AG42

Disaster Assistance Loan Program; Maximum Term for Disaster Loans to Small Businesses with Credit Available Elsewhere

AGENCY: U. S. Small Business Administration (SBA).

ACTION: Direct final rule.

SUMMARY: SBA is amending its disaster assistance regulations to reflect a statutory change to the disaster assistance program contained in the Consolidated Appropriations Act, 2012. The change extends the maximum term of an SBA disaster loan to small businesses with credit available elsewhere from three years to seven years. This direct final rule conforms the regulations to the Act by adopting the new statutory requirement without change.

DATES: This rule is effective [INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] without further action, unless significant adverse comment is received by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. If significant adverse comment is received, SBA will publish a timely withdrawal of the rule in the Federal Register.

ADDRESSES: You may submit comments, identified by RIN 3245-AG42, by any of the following methods: (1) Federal Rulemaking Portal: <http://www.regulations.gov>, following the specific instructions for submitting comments; (2) Fax (202) 481-2226; or Email: James.Rivera@sba.gov; or (3) Mail/Hand Delivery/Courier: James E. Rivera,

Associate Administrator for Disaster Assistance, 409 3rd Street, SW, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Roger B. Garland, Office of Disaster Assistance, 202-205-6734 or Roger.Garland@sba.gov.

SUPPLEMENTARY INFORMATION:

Section 7(b) of the Small Business Act, 15 U.S.C. 636(b), authorizes SBA to make long-term disaster loans to homeowners, renters, businesses, and non-profit organizations that have been adversely affected by a declared disaster. The Consolidated Appropriations Act, 2012, Public Law 112-74, Div. C, title V, section 531, enacted December 23, 2011, amended the Small Business Act to increase the maximum loan maturity from three years to seven years for business disaster victims that have been determined to have access to credit elsewhere.

SBA is amending section 123.203 to incorporate this change. The change applies to business physical loans only. For economic injury loans, businesses with credit elsewhere remain ineligible. The new seven year term for disaster loans to businesses determined to have credit available elsewhere will apply to disasters declared on or after December 23, 2011, the enactment date of the statutory amendment.

Consideration of comments:

SBA believes that this rule is routine and non-controversial since it merely implements changes required by statute, and SBA anticipates no significant adverse comments to this rulemaking. If SBA receives any significant adverse comments, it will publish a timely withdrawal of this direct final rule.

Compliance with Executive Orders 12866, 12988, and 13132 and the Paperwork Reduction Act (44 U.S.C., Ch. 35) and the Regulatory Flexibility Act (5 U.S.C. 601-612)
Executive Order 12866

The Office of Management and Budget (OMB) has determined that this direct final rule does not constitute a significant regulatory action under Executive Order 12866. This is not a major rule under the Congressional Review Act, 5 U.S.C. 800.

Executive Order 12988

This action meets applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden. The action does not have preemptive effect. The final rule will have retroactive effect to the enactment date of the statutory amendment. The new seven year term for direct disaster loans to businesses determined to have credit available elsewhere will apply to disasters declared on or after December 23, 2011.

Executive Order 13132

For the purposes of Executive Order 1312, the direct final rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. Therefore, SBA determined that this direct final rule has no federalism implications warranting preparation of a federalism assessment.

Paperwork Reduction Act (44 U.S.C. Ch. 35)

For the purpose of the Paperwork Reduction Act, 44 U.S.C. Ch. 35, SBA has determined that this direct final rule would not impose any new reporting or recordkeeping requirements.

Regulatory Flexibility Act (5 USC 601-612)_

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601, requires administrative agencies to consider the effect of their actions on small entities, including small businesses. According to the RFA, when an agency issues a rule, the agency must prepare an analysis to determine whether the impact of the rule will have a significant economic impact on a substantial number of small entities. However, the RFA allows an agency to certify a rule in lieu of preparing an analysis if the rulemaking is not expected to have a significant impact on a substantial number of small entities. This rule only makes a conforming amendment to recent legislation on the disaster loan program, and does not implement new agency policies. The amendment will affect small entities; however SBA has determined that the amendment will not have a significant economic impact on a substantial number of such entities.

List of Subjects in 13 CFR Part 123

Disaster assistance, Loan programs-business. Reporting and recordkeeping requirements, Small businesses.

For reasons set forth in the preamble, the SBA amends 13 CFR part 123 as follows:

PART 123 - DISASTER LOAN PROGRAM

1. The authority citation for part 123 is revised to read as follows:

Authority: 15 U.S.C. 632, 634(b)(6), 636(b), 636(d), 657n; Pub.L. 102–395, 106 Stat. 1828, 1864; Pub.L. 103–75, 107 Stat. 739; and Pub.L. 106–50, 113 Stat. 245.

2. Amend § 123.203(a) by revising the fourth sentence of paragraph (a) to read as follows:

§123.203 What interest rate will my business pay on a physical disaster business loan and what are the repayment terms?

(a) * * * The maturity of your loan depends upon your repayment ability, but cannot exceed seven years if you have credit elsewhere.* * *

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Dated: February 17, 2012

Karen G. Mills,
Administrator.

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